

## Message Text

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ORIGIN L-03

INFO OCT-01 IO-12 ADP-00 EB-11 EUR-25 SY-10 SSO-00 NSCE-00

USIE-00 INRE-00 CIAE-00 DODE-00 PM-09 H-02 INR-10

NSAE-00 NSC-10 PA-03 RSC-01 PRS-01 SS-15 CPR-02 M-03

A-01 JUSE-00 USSS-00 SCA-01 NEA-10 /130 R

66601

DRAFTED BY : L/ UNA: RJBETTAUER: JNP

5/17/73 EXT. 22282

APPROVED BY: L/ UNA: RJBETTAUER

IO/ UNP - MR. ROTHENBERG

S/ CCT - AMBASSADOR MEYER

L - MR. DALTON

L - MR. FELDMAN ( SUBS)

EUR/ WE - MR. SHEINBAUM

----- 091494

O P 171548 Z MAY 73

FM SECSTATE WASHDC

TO AMEMBASSY BRUSSELS IMMEDIATE

INFO USMISSION USUN NEW YORK PRIORITY

AMEMBASSY OTTAWA

USMISSION GENEVA PRIORITY

C O N F I D E N T I A L STATE 094220

E. O. 11652: GDS

TAGS: PINS, UN

SUBJECT: ILC DRAFT ARTICLES ON PROTECTION OF DIPLOMATS

REF: BRUSSELS 2710 ( NOTAL)

1. DEPARTMENT RECOGNIZES THAT POTENTIALLY SERIOUS PROBLEM  
HAS BEEN RAISED BY CANADIANS REGARDING WHETHER CONVENTION  
ON PROTECTION OF DIPLOMATS ( CPD) WOULD RESTRICT OPTION OF  
GOVERNMENT TO NEGOTIATE WITH TERRORISTS FOR RELEASE OF  
HOSTAGES IN EXCHANGE FOR SAFE PASSAGE OUT OF COUNTRY. WE  
HAVE BEEN AWARE OF THIS CANADIAN CONCERN BUT HAVE SEEN NO  
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PROPOSAL ON THE MATTER. FYI: WE WOULD BE INTERESTED IN SEEING TEXT OF CLAUSE PROPOSED BY CANADIANS. END FYI. WHILE WE SYMPATHIZE WITH GOC DESIRE TO MAINTAIN THIS MUCH FLEXIBILITY, WE BELIEVE THIS CAN BE ACHIEVED WITHOUT AN EXPLICIT CLAUSE THAT COULD WEAKEN THE DETERRENT EFFECT OF CPD AND MIGHT BE ABUSED. IN PRINCIPLE USG HAS NO OBJECTION TO TRADING SAFE PASSAGE OF KIDNAPPER FOR LIFE OF HOSTAGE, BUT WE THINK CLEAR OBLIGATION MUST BE RETAINED FOR OTHER COUNTRIES TO WHICH KIDNAPPER MAY FLEE TO PROSECUTE OR EXTRADITE.

2. WE SHOULD NOTE THAT NONE OF PREVIOUS CONVENTIONS WHICH CONTAIN SIMILAR SCHEME FOR REQUIRING PROSECUTION OR EXTRADITION OF ALLEGED OFFENDERS CONTAINS CLAUSE ALONG LINE SUGGESTED BY CANADIANS. THESE CONVENTIONS ARE OAS TERRORISM CONVENTION ( WHICH CONCERNS PROTECTION OF DIPLOMATS),

HAGUE ( HIJACKING) CONVENTION, AND MONTREAL ( SABOTAGE) CONVENTION. REASONABLE READING OF CONVENTIONS HAS APPARENTLY NOT PREVENTED GOVERNMENTS FROM RESPONDING TO A PARTICULAR INCIDENT IN PROGRESS BY TAKING INTO ACCOUNT RELEVANT FACTORS AND DECIDING, WHERE APPROPRIATE, TO NEGOTIATE SAFE PASSAGE OF OFFENDER IN RETURN FOR RELEASE OF HOSTAGES. ANALOGOUS DOMESTIC LAW PROHIBITS KIDNAPPING, YET POLICE AUTHORITIES IN MANY COUNTRIES ( INCLUDING US) READY TO NEGOTIATE ARRANGEMENTS FOR RELEASE OF HOSTAGE IF HUMAN CONSIDERATIONS SO DICTATE. CPD COULD BE READ IN SIMILAR REASONABLE MANNER, AND IT IS UNLIKELY, IN OUR VIEW, THAT OTHER COUNTRIES WOULD PROTEST. PROTEST WOULD ARISE ONLY IF AFTER CONCLUSION OF INCIDENT COUNTRY CONTINUED TO REFUSE EITHER TO ARREST AND PROSECUTE OR TO EXTRADITE.

3. IF IT SHOULD APPEAR THAT OTHER COUNTRIES HAVE SIMILAR CONCERNS AS CANADIANS, WE WOULD BE READY TO EXPLORE MATTER BILATERALLY OR DISCUSS IT AT SUBSEQUENT MEETING OF VAN BRESSELEN GROUP. FYI: DEPARTMENT HAS ALREADY PROPOSED BILATERALS TO CANADIANS. END FYI. ONE ALTERNATIVE THAT MIGHT BE FURTHER EXAMINED IS SUGGESTION IN PARA 12 OF USUN 1751 THAT RATHER THAN DEALING WITH MATTER BY SPECIFIC TREATY CLAUSE IT MIGHT BE HANDLED BY TACIT  
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UNDERSTANDING.

4. YOU SHOULD NOTE TO GOB THAT WE APPRECIATE OPPORTUNITY TO EXPRESS OUR VIEWS TO FONOFF AND WILL BE HAPPY TO KEEP IN CLOSE TOUCH ON SUBSTANCE OF CPD. RUSH

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\*\*\* Current Handling Restrictions \*\*\* n/a

\*\*\* Current Classification \*\*\* CONFIDENTIAL

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